IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	Case No. 4:04CR3003
	)	
v.	)	
	)	**MEMORANDUM**
MARVIN T. STARKS,	)	**AND ORDER**
	)	
Defendant.	)	

The defendant *may* be entitled to a reduction in sentence due to the retroactive application of the "Crack Cocaine Amendment" to the federal Sentencing Guidelines implementing the Fair Sentencing Act of 2010, effective November 1, 2011.   The defendant should understand that I have made no determination whether the defendant is covered by the Amendment or whether the defendant, if covered by the Amendment, should be given a reduction. Those questions are yet to be determined. With the foregoing in mind,

IT IS ORDERED that:

1.   Pursuant to General Order No.2011-12, the Federal Public Defender (or his nominee) is herewith appointed to represent the defendant.   The Clerk's office shall provide the Federal Public Defender and the defendant with a copy of this order. *Appointed counsel shall promptly enter an appearance.*

2.   The probation office has already provided a "Retroactive Sentencing Worksheet" to the undersigned. If counsel do not have a copy, counsel should contact the probation office to obtain one.

3.   No later October 9, 2012, counsel of record shall confer and do one of the following:

A.   File a stipulation signed by both counsel containing the following provisions: (i) an agreement that the defendant is eligible for a sentence reduction pursuant to 18 U.S.C. § 3582(c) and U.S.S.G. § 1B1.10; (ii) an agreement that the defendant may be resentenced without being present and without further notice; and (iii) an agreement regarding the recommended sentence.

B.   In lieu of the stipulation provided in paragraph A, counsel for the government shall contact my judicial assistant and arrange a telephone conference with the undersigned and counsel for the defendant so that further progression of this case may be scheduled.

August 7, 2012.

BY THE COURT:

Richard G. Kopf
Senior United States District Judge